

ANNA ADORA JENSEN

MARCH 3, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 879]

The Committee on the Judiciary, to whom was referred the bill (S. 879) for the relief of Anna Adora Jensen, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that, for the purposes of laws conferring rights, privileges, or benefits on widows of veterans of World War I, Anna Adora Jensen, of Sandy, Utah, shall be held and considered to have been lawfully married to Earl Jensen (deceased) a veteran of World War I during the period of April 19, 1933, to July 30, 1948.

STATEMENT

Mrs. Anna Adora Jensen is the widow of Earl Jensen, an honorably discharged veteran of World War I. Earl Jensen died on September 17, 1954. However, Mrs. Jensen has been refused widow's benefits under the veterans' laws by the Veterans' Administration. She has been refused these benefits on the ground that when she and her late husband were married on April 19, 1933, the divorce decree dissolving her husband's previous marriage was by its terms not yet final.

The Senate Committee on the Judiciary conducted a hearing on this matter, and the report of that committee is attached to this report. Mrs. Jensen testified that she and her husband believed they had contracted a valid marriage in 1933. It was not until much later that they learned that the validity of their marriage was questioned on the basis of the terms of the husband's divorce decree. To clear up this question, Mrs. Jensen and her husband went through a second marriage ceremony on July 30, 1948.

After Mrs. Jensen's husband died on September 17, 1954, she was advised by the Veterans' Administration that it would only recognize the validity of the marriage from the later date, and under the provisions of the laws relating to benefits for widows of World War I veterans, this holding had the effect of barring her from the benefits accorded to such widows.

The committee has carefully reviewed the facts of this case, and has concluded that this is a proper matter for legislative relief. Therefore this committee recommends that the bill be considered favorably.

Senate Report No. 642 of the 85th Congress, 1st session, which contains the adverse Veterans' Administration report is as follows:

[S. Rept. No. 642, 85th Cong., 1st Sess.]

PURPOSE

The purpose of the proposed legislation, as amended, is to establish that for the purposes of any laws conferring rights, privileges, or benefits upon widows of veterans of World War I, the claimant, Anna Adora Jensen, of Sandy, Utah, shall be held and considered to have been lawfully married to Earl Jensen (deceased), a veteran of World War I, during the period April 19, 1933, until July 30, 1948.

STATEMENT

Earl Jensen, XC-441167, an honorably discharged veteran of World War I, died in the State of Utah on September 17, 1954. The claimant is the widow of the said deceased serviceman.

In 1933 the claimant's husband, now deceased received a decree of divorce interlocutory in nature, from the Sixth Judicial District Court of the State of Utah, dissolving the veteran's prior marriage to one Nancy Howes Jensen. This decree was entered on April 19, 1933, and contained the provision that in accordance with law the decree shall not become final until after expiration of 6 months from the date of entry. On the same day, April 19, 1933, the veteran and the claimant, Anna Adora Jensen, went through a ceremonial marriage in the State of Nevada. They returned to the State of Utah where they maintained their domicile to the date of the veterans death except for a period of residence in the State of Washington in 1947-48. During this period of residence in Washington State, the claimant and her deceased husband went through a second ceremonial marriage on July 30, 1948, a little over 6 years before the veteran's death.

Anna Adora Jensen filed claim for death compensation or pension on October 8, 1954. Section 3 of the act of May 13, 1938 (52 Stat. 353), as amended (38 U. S. C. 505 (a)), provides that for the purpose of payment of compensation or pension under laws administered by the Veterans' Administration, the term "widow of a World War I veteran" shall mean a woman who was married prior to December 14, 1944, or 10 or more years to the person who served, provided that all marriages shall be proven as valid marriages according to the law of the place where the parties resided at the time of marriage or the law of the place where the parties resided when the right to compensation or pension accrued.

The Veterans' Administration report states:

Mrs. Jensen's claim was referred to the chief attorney, Veterans' Administration regional office, Denver, Colo., for opinion as to whether she may be recognized as the widow of the veteran for death benefit purposes. On the basis of cited Utah statutes and decisions of the Supreme Court of the State of Utah, the Chief Attorney rendered an opinion on December 6, 1954, to the effect that since the prior marriage of the veteran was not finally dissolved until October 19, 1933, the marriage ceremony between him and the claimant on April 19, 1933, may not be recognized as valid for purposes of veterans' Administration death benefits; and further that there was no evidence to establish the existence of a common-law marriage after October 19, 1933, and prior to December 14, 1944. Accordingly, the widow's claim was denied. Upon appellate review, the action of denial was confirmed by the Board of Veteran's Appeals. In this regard it is noted that the bill agrees with the Veterans' Administration that the ceremony of April 19, 1933, did not result in a valid marriage.

Denial of death compensation or pension to Anna Adora Jensen is not determinative of her marital status except as it may affect her claim for those benefits under law administered by the Veterans' Administration based on the military service of the veteran. In fact, she was determined by the Veterans' Administration to be the veteran's widow by virtue of her ceremonial marriage to him on July 30, 1948, and entitled to payment of accrued disability pension which had been due the veteran but remained unpaid upon his death, the date of marriage being immaterial for such purpose.

A hearing was conducted by Senator Watkins with respect to this bill in Salt Lake City on April 10, 1957, at which time the claimant testified. Her testimony tends to establish that she and her deceased husband believed that they had contracted a valid marriage when the ceremony was performed in 1933. Subsequent to that time, the claimant is not certain of the date, but just prior to their moving to the State of Washington, they received a letter from the Veterans' Administration which stated that the said marriage was invalid. Acting upon this advice, the claimant and her husband had performed another ceremonial marriage in the State of Washington on July 30, 1948.

During the period following the first marriage, the couple had two children, Earl L. Jensen, born April 23, 1934, and Vaughn R. Jensen, who was born on April 30, 1935. Both of the boys served in the Army. She further testified that during all of the period from the date of the first marriage to the date of his death they lived together as man and wife. The claimant is now dependent upon a small social-security allotment in the amount of \$33.90 per month and has received no other benefits or pensions.

The Veterans' Administration is opposed to the enactment of this bill on the basis that the bill would accord preferential treatment to the claimant.

The committee feels that the comment of the Veterans' Administration in the quoted portion of its report with respect to common-law

marriage is unwarranted. First, the Utah Code (see sec. 30-1-2) prohibits common-law marriage. Secondly, as two sons were born during the stated period and in view of the unquestioned cohabitation and evidence of intent, the requirements of most States which recognize common-law marriage are fulfilled. Therefore the committee feels that the statement "that there was no evidence to establish the existence of a common-law marriage after October 19, 1933, and prior to December 14, 1944" is not warranted.

The committee, after careful consideration of the foregoing facts, and particularly in view of the fact that claimant and her deceased husband lived as man and wife over a long period of years and thought that their marriage was valid, and, in view of the fact, that two children were born of the union, believes that the claimant should be granted a waiver of the quoted provisions of the existing law for the purpose of securing veterans' widows benefits, and accordingly recommends that the measure, as amended, be favorably considered.

Attached hereto and made a part hereof is a report from the Veterans' Administration, dated March 26, 1957.

VETERANS' ADMINISTRATION,
Washington, D. C., March 26, 1957:

HON. JAMES O. EASTLAND,

*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

DEAR SENATOR EASTLAND: This has further reference to your request for a report by the Veterans' Administration on S. 879, 85th Congress, a bill for the relief of Anna Adora Jensen, which provides as follows:

"That, for the purposes of any laws conferring rights, privileges, or benefits upon widows of veterans of World War I, Anna Adora Jensen, of Saint Sandy, Utah, shall be held and considered to have been lawfully married to Earl Jensen (deceased), a veteran of World War I, during the period from April 19, 1933, the date the said Anna Adora Jensen and Earl Jensen entered into a marriage ceremony in the State of Nevada (which ceremony was invalid because a divorce decree dissolving a prior marriage of the said Earl Jensen had not become final), to July 30, 1948, the date on which the said persons entered into a valid marriage contract in the State of Washington."

Earl Jensen, XC-441167, an honorably discharged veteran of World War I, died in the State of Utah on September 17, 1954. A decree of divorce, interlocutory in nature, containing provision that in accordance with law the decree shall not become final until after expiration of 6 months from the date of entry, was entered on April 19, 1933, in the Sixth Judicial District Court of the State of Utah, dissolving the veteran's prior marriage to one Nancy Howes Jensen. On the same day, April 19, 1933, the veteran and the claimant, Anna Adora Jensen, went through a ceremonial marriage in the State of Nevada. They returned to the State of Utah where domicile was maintained to the date of the veteran's death, except for a period of residence in the State of Washington in 1947-48, where they went through a second ceremonial marriage on July 30, 1948.

Anna Adora Jensen filed claim for death compensation or pension on October 8, 1954. Section 3 of the act of May 13, 1938 (52 Stat. 353), as amended (38 U. S. C. 505 (a)), provides that for the purpose of payment of compensation or pension under laws administered by the Veterans' Administration, the term "widow of a World War I veteran" shall mean a woman who was married prior to December 14, 1944, or 10 or more years, to the person who served, provided that all marriages shall be proven as valid marriages according to the law of the place where the parties resided at the time of marriage or the law of the place where the parties resided when the right to compensation or pension accrued.

Mrs. Jensen's claim was referred to the chief attorney, Veterans' Administration regional office, Denver, Colo., for opinion as to whether she may be recognized as the widow of the veteran for death benefit purposes. On the basis of cited Utah statutes and decisions of the Supreme Court of the State of Utah, the chief attorney rendered an opinion on December 6, 1954, to the effect that since the prior marriage of the veteran was not finally dissolved until October 19, 1933, the marriage ceremony between him and the claimant on April 19, 1933, may not be recognized as valid for purposes of Veterans' Administration death benefits; and further that there was no evidence to establish the existence of a common-law marriage after October 19, 1933, and prior to December 14, 1944. Accordingly, the widow's claim was denied. Upon appellate review, the action of denial was confirmed by the Board of Veterans' Appeals. In this regard it is noted that the bill agrees with the Veterans' Administration that the ceremony of April 19, 1933, did not result in a valid marriage.

Denial of death compensation or pension to Anna Adora Jensen is not determinative of her marital status except as it may affect her claim for those benefits under laws administered by the Veterans' Administration based on the military service of the veteran. In fact, she was determined by the Veterans' Administration to be the veteran's widow by virtue of her ceremonial marriage to him on July 30, 1948, and entitled to payment of accrued disability pension which had been due the veteran but remained unpaid upon his death, the date of marriage being immaterial for such purpose.

S. 789, if enacted, would be a conclusive determination by legislative action that for the purpose of any laws conferring rights, privileges, or benefits upon widows of veterans of World War I, Anna Adora Jensen shall be held and considered to have been lawfully married to the veteran from April 19, 1933. It is not known what effect, if any, the enactment of this bill would have with respect to the claimant's eligibility for benefits under laws administered by Federal agencies other than the Veterans' Administration. Insofar as laws administered by the Veterans' Administration are concerned, it appears that enactment of the bill would render Mrs. Jensen potentially eligible, upon application filed in the Veterans' Administration after enactment, to prospective payment of monetary death benefits. Before any payment could be authorized, of course, it would be necessary for the Veterans' Administration to determine whether the claimant meets all the requirements of governing law other than the requirement which would be satisfied by S. 879, if enacted. It is assumed in this connection that, if such requirements are met, the bill

is not designed to require payment for any period prior to the date of filing of the mentioned application.

Attention is invited to section 131 of the Legislative Reorganization Act of 1946 (60 Stat. 831), which provides in pertinent part as follows:

"No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money * * * for a pension * * * shall be received or considered in either the Senate or House of Representatives."

There appears to be for consideration the question as to whether S. 879 is consistent with the congressional policy expressed in the quoted section.

The circumstances of the case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment to the exclusion of other cases which must be denied where similar circumstances exist. To grant such preferential treatment would be discriminatory and might serve as a precedent for like treatment of similar cases. In this regard, the attention of your committee is invited to the general bills H. R. 73, H. R. 412, H. R. 921, H. R. 3053, and H. R. 3658, 85th Congress, pending before the House Committee on Veterans' Affairs, each of which proposes to (1) liberalize date of marriage requirements for widows of veterans for the purpose of payment of death compensation or pension under laws administered by the Veterans' Administration, and (2) authorize the payment of gratuitous death benefits under those laws to certain women who cannot qualify therefor as the legal widows of the veterans.

The Veterans' Administration does not believe that private bills of the nature of S. 879 should receive favorable consideration.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

H. V. HIGLEY, *Administrator.*

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